

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIA
CIVIL MINUTES**

Case Title :	Herbert Edward Miller	Case No :	13-23040 – B – 11
		Date :	10/1/13
		Time :	9:32
Matter :	[16] – Motion/Application to Value Collateral of Washington Mutual Bank, FA [GEM-2] Filed by Debtor Herbert Edward Miller (smis)		
Judge :	Thomas Holman		
Courtroom Deputy :	Sheryl Arnold		
Reporter :	Diamond Reporters		
Department :	B		

APPEARANCES for :

Movant(s) :

(by phone) Debtor(s) Attorney – Gilbert E. Maines
Debtor – Herbert Edward Miller

Respondent(s) :

(by phone) Creditor's Attorney – Greg Campbell for Citimortgage

Disposition After Oral Argument (formerly Tentative Ruling): This motion was continued to this calendar from an evidentiary hearing date set for August 22, 2013 at 2:00 p.m. The evidentiary hearing was vacated and the matter continued to this calendar due to the withdrawal of the opposition to the motion filed by secured creditor Citimortgage, Inc. The court now issues the following truling.

The motion is denied without prejudice.

By this motion, the debtor seeks to value real property located at 11356 Alta Mesa East Rd., Wilton, California (the "Real Property") at \$97,920.00. However, the debtor has not submitted admissible evidence sufficient to support his proposed valuation of the Real Property. According to the motion, the debtor's proposed value is based on his opinion that an appraisal performed by appraiser Barth Boss, which appraisal determined the value of the real property to be \$272,000.00, is inaccurate because the appraisal does not take into account "actual knowledge of the repairs needed" on the Real Property and "title defects" on the Real Property.

As owner of the Real Property, the debtor may submit a lay opinion of its value. Fed. R. Evid. 701. However, the court is not required to accept the debtor's opinion of value. According to his sworn Schedule I, the debtor is a Store Manager at Sharif Jewelers in Sacramento, California. The debtor has not submitted any evidence that he is a licensed contractor or that he is a licensed attorney. The debtor has not established that he is qualified to assess the proper deductions, if any, from the value of the Real Property based on the costs of repairs or alleged title defects. Furthermore, although the debtor contends that the appraisal does not take into account costs of repairs, the appraisal itself (Dkt. 22) notes that the Real Property was in less than average condition at the time of the appraisal, that the Real Property's wood siding was in need of replacement, that the interior paint was worn and that the Real Property has "extensive deferred maintenance" which could encompass many if not all of the repairs the debtor contends are needed but not taken into account by the appraisal.

The court will issue a minute order.